

**§ 1152.30 General.**

(a) *Contents of subpart.* (1) 49 U.S.C. 10905 directs the Commission to determine the extent to which the avoidable costs of providing rail service plus a reasonable return on the value of the line exceed the revenues attributable to the line. Section 205(e)(1)(B) of the Regional Rail Reorganization Act of 1973, as amended, directs the Office to publish standards for determining the “avoidable costs of providing rail freight service”, as that phrase is used in section 10905. This subpart contains the methodology for such determinations and the standards necessary for application of those terms in the context of a particular proceeding. Such data will be used in reaching the Commission’s findings on the merits of an abandonment of discontinuance proceeding and in making the necessary financial assistance determinations.

(2) This subpart also sets forth a method by which the carrier may establish its Forecast Year estimates and Estimated Subsidy Payment to be included in its application (§ 1152.22(d) of this part). Furthermore, an offeror of financial assistance may use this method to formulate a subsidy offer and/or Proposed Subsidy Payment under 49 U.S.C. 10905 and § 1152.27 of Subpart C of this part.

(b) *Data collection.* The owning or operating carrier shall establish a system to collect at branch level the data necessary to compute the base year data and the final subsidy payment. The collection and compilation of such data shall be in accordance with the Branch Line Accounting System (49 CFR Part 1201) established by the Office pursuant to section 205(e)(1)(a) of the Regional Rail Reorganization Act of 1973, as amended.

(c) *Final payment of financial assistance.* (1) When a financial assistance agreement is concluded and rail service continued thereunder, the final annual payment will be adjusted to reflect the actual revenues derived, avoidable costs incurred, and value of the properties used in the subsidy year.

(2) Where an adjustment results in an increase in the Estimated Subsidy Payment upon which the financial assistance agreement is based, the amount of such increase in excess of 15 percent of

the estimated payment shall be treated as a carryover avoidable cost in the subsequent subsidy year. However, if the railroad notifies the subsidizer that the estimate will be exceeded by more than 15 percent in one of the Financial Status Reports (§ 1152.37) issued during the first ten months of the subsidy year or the increase results from an expense preapproved by the subsidizer, the adjusted amount shall be included in the final annual payment.

[41 FR 48520, Nov. 4, 1976, as amended at 43 FR 7625, Feb. 24, 1978. Redesignated at 47 FR 49581, Nov. 1, 1982, and amended at 47 FR 49582, Nov. 1, 1982; 48 FR 54238, Dec. 1, 1983; 53 FR 49667, Dec. 9, 1988]

**§ 1152.31 Revenue and income attributable to branch lines.**

The revenue attributable to the rail properties is the total of the revenues assigned to the branch in accordance with this section, plus any subsidy payments that would cease upon discontinuance of service on the branch, for the subsidy year. The revenues assigned shall be derived from the following accounts:

(a) *Account 101-Freight.* The revenue assigned under this account shall be the actual revenues, including transit revenues, accruing to the railroad, derived from waybills and other source documents, for all traffic that:

(1) Originates and terminates on the branch;

(2) Originates or terminates on the branch and is handled off the branch on the system but not on another carrier; and

(3) Originates or terminates on the branch and is handled on another carrier.

All traffic that is received or forwarded through interchange at a point on the branch, including ferry operations, shall be considered as originating or terminating on the branch. The revenues of all other bridge or overhead traffic shall be attributed to the branch on the ratio of miles moved on the branch to miles moved on the system, provided, however, that the parties may agree on a mutually acceptable usage charge for bridge traffic in lieu of the mileage apportionment.

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(b) *Account 104—Switching; Account 105—Water transfers; Account 106—Demurrage; Account 110—Incidental; Account 121—Joint Facility-Credit; Account 122—Joint Facility-Debt; Account 506—Revenues from Properties Used in Other Than Carrier Operations; Account 510—Miscellaneous Rent Income; Account 519—Miscellaneous Income.* The revenues assigned under these accounts shall be the actual revenues accruing to the railroad that are directly attributable to the branch.

(c) *Conversion Chart For Revenue Accounts*

Revenue account title	Previous account No.	Present account No.
Freight .....	101,109	101
Switching .....	110	104
Water transfers .....	113	105
Demurrage .....	137	106
Incidental .....	130, 132, 133, 135, 138, 139, 141, 142, 143	110
Joint facility-credit .....	151	121
Joint facility-debt .....	152	122
Revenues from property used in other than carrier operations, less expenses .....	502, 511	506, 534
Miscellaneous rent income .....	510	510
Miscellaneous income .....	519	519

[43 FR 7624, Feb. 24, 1978. Redesignated at 47 FR 49581, Nov. 1, 1982 and amended at 56 FR 61387, Dec. 3, 1991]

**§ 1152.32 Calculation of avoidable costs.**

This section defines: Which cost elements are eligible for inclusion in the

calculation of avoidable costs; the conditions under which certain cost elements become eligible for inclusion; and the basis of apportioning those cost elements which are not assigned to the branch on an actual expense basis. The avoidable costs of providing freight service on a branch shall be the total of the costs assigned to the branch in accordance with this section. The avoidable costs of providing freight service on a branch shall be just and reasonable, and shall not exceed those necessary for an honest and efficient operation. Those expenses apportioned under this section shall be derived from the latest Form R-1 or Form R-2 of the railroad filed with the ICC prior to the conclusion of the subsidy year, and assigned to the branch according to the procedures set forth in § 1152.33 of these regulations. When the term "Actual" is specified as the basis for assigning an expense, it shall mean that the only costs which can be assigned to the account are those costs which are incurred solely as a result of the continuation of rail freight service on the branch. The accounts in the following charts, which list only the "freight-only" account numbers, shall include the portion of common expenses that have been apportioned to freight service.

Operating expense group and accounts	Previous account No.	Present account No.	Basis of assignment to on-branch costs
(a) Maintenance of way and structures			
(1) Administration:			
Track			
Salaries and wages .....	201	11-13-02	Actual.
Materials .....		21-13-02	Do.
Purchased services .....		41-13-02	Do.
Other expenses .....		61-13-02	Do.
Bridges and buildings			
Salaries and wages .....	201	11-13-03	Do.
Materials .....		21-13-03	Do.
Purchased services .....		41-13-03	Do.
Other expenses .....		61-13-03	Do.
Signals			
Salaries and wages .....	201	11-13-04	Do.
Materials .....		21-13-04	Do.
Purchased services .....		41-13-04	Do.
Other expenses .....		61-13-04	Do.
Communications			
Salaries and wages .....	201	11-13-05	Do.
Materials .....		21-13-05	Do.
Purchased services .....		41-13-05	Do.